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Attorneys for Plaintiff
SUMMIT ENTERTAINMENT, LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

SUMMIT ENTERTAINMENT, LLC,
a Delaware limited liability company,

Case No. CV09-8161 PSG (MANx)

Plaintiff,

v.

BECKETT MEDIA, LLC., a Delaware
limited liability company, CURTIS
CIRCULATION COMPANY, LLC, a
Delaware limited liability company,
UBIQUITY DISTRIBUTORS, INC., a
New York Corporation, and Does 1-10,
inclusive,

**STIPULATED JUDGMENT AND
PERMANENT INJUNCTION**

Defendants.

IT IS HEREBY STIPULATED by and between Plaintiff Summit
Entertainment, LLC ("Summit") and Defendants Beckett Media, LLC ("Beckett"),
Curtis Circulation Company, LLC ("Curtis"), and Ubiquity Distributors, Inc.,
("Ubiquity") (collectively, "Defendants"), that a Judgment shall be entered to fully
and finally dispose of this Civil Action and that the Judgment be as follows:

1 WHEREAS, Summit produced and distributed the motion pictures *Twilight*,
2 *The Twilight Saga: New Moon*, and *The Twilight Saga: Eclipse* (collectively, the
3 “*Twilight Motion Pictures*”). Summit claims to own numerous intellectual property
4 rights related to the *Twilight Motion Pictures*;

5 WHEREAS, Summit claims to own the trademarks TWILIGHT, NEW
6 MOON, ECLIPSE and BREAKING DAWN in block letters and the TWILIGHT
7 stylized mark, as shown below (which are collectively referred to herein as the
8 “Twilight Marks”):

9
10 
11

12 The term “Twilight Marks” includes only those marks or trademark interests that
13 are owned by Summit;

14 WHEREAS, Summit claims to own copyrights in the trailers and full-length
15 films for the *Twilight Motion Pictures*, as well as for publicity, promotional, unit,
16 and special shoot photography and artwork related to the *Twilight Motion Pictures*
17 (the “Twilight Copyrights”). The term “Twilight Copyrights” includes only those
18 works of authorship or copyright interests owned by Summit;

19 WHEREAS, the Twilight Marks and Twilight Copyrights are referred to
20 collectively herein as “the Twilight Intellectual Property”;

21 WHEREAS, on November 6, 2009, Summit filed a complaint in this action
22 against Beckett seeking damages and injunctive relief for allegations of false
23 designation of origin, trademark infringement, trademark dilution, copyright
24 infringement, unfair competition, and breach of contract based upon, among other
25 things, Beckett’s two publications published in 2009, each of which was entitled
26 “Beckett Teen Sensations Presents: Twilight Unofficial Collector’s Guide” (the
27 “Disputed Publications”) and printing plates therefor (“Printing Plates”);
28

1 WHEREAS, on January 13, 2010, Summit filed a first amended complaint
2 against Beckett;

3 WHEREAS, on January 15, 2010, the Court entered a preliminary injunction
4 ("Preliminary Injunction");

5 WHEREAS, on July 9, 2010, Summit filed a second amended complaint
6 ("SAC") against Beckett, adding Curtis and Ubiquity as defendants in this Civil
7 Action;

8 WHEREAS, Summit and Defendants have entered into a settlement
9 agreement dated March 10, 2011 (the "Agreement") with the mutual intention of
10 resolving all disputes between them which arise from the allegations of the SAC;

11 WHEREAS, this Court has jurisdiction over the subject matter of this
12 controversy pursuant to 15 U.S.C. § 1121(a) (Lanham Act jurisdiction), 17 U.S.C. §
13 501 (Copyright Act jurisdiction), 28 U.S.C. § 1331 (federal question jurisdiction),
14 28 U.S.C. § 1338(a) (trademark and copyright jurisdiction) and 28 U.S.C. § 1338(b)
15 (unfair competition jurisdiction);

16 THE COURT HEREBY ORDERS, ADJUDGES AND DECREES:

17 1. Permanent Injunction Against Beckett. Beckett and its officers,
18 directors, servants, employees, subsidiaries, representatives, members, successors,
19 assigns, attorneys, agents, and all persons in active concert or participation with
20 Beckett or with any of the foregoing, including distributors, subdistributors,
21 wholesalers, and resellers aka dealers are hereby permanently enjoined from:

22 (a) Publishing, distributing, displaying, selling, or offering for sale
23 the Disputed Publications or the Printing Plates, or copying, displaying, exhibiting,
24 distributing, or using the content, photographs, poster images, or any other
25 copyrightable subject matter owned by Summit from, related to, or produced or
26 generated in connection with the *Twilight* Motion Pictures or any other sequels to
27 the *Twilight* Motion Pictures, or engaging in any act that infringes the Twilight
28 Copyrights; this Paragraph 1(a) shall not preclude the use of any copyrightable

1 subject matter related to the *Twilight* Motion Pictures in a manner that constitutes
2 permissible "fair use" under 17 U.S.C. § 107;

3 (b) Manufacturing, transporting, promoting, importing, advertising,
4 marketing, publicizing, distributing, exhibiting, displaying, offering for sale or
5 selling any good or service that uses, or is offered under, any of the Twilight Marks,
6 or any other mark, name, symbol, design or logo in a way that is likely to cause
7 confusion or to cause mistake or to deceive persons into the erroneous belief that
8 any goods or services that Beckett caused to enter the stream of commerce are
9 sponsored, licensed, or endorsed by Summit, are authorized by Summit, or are
10 connected or affiliated with Summit, or the *Twilight* Motion Pictures; this
11 Paragraph 1(b) shall not preclude Beckett from displaying advertisements bearing
12 the Twilight Marks where the prospective advertiser is licensed by Summit to use
13 the Twilight Marks or Beckett reasonably believes, after due diligence, that the
14 prospective advertiser is licensed by Summit to use the Twilight Marks;

15 (c) Falsely representing or implying Summit's endorsement,
16 sponsorship, license, or approval of, or Summit's affiliation with, any of Beckett's
17 commercial activities or goods or services;

18 (d) Falsely representing or implying that Beckett is in any way
19 sponsored by, affiliated with, or endorsed or licensed by Summit, or that Beckett or
20 its products are affiliated or connected with the *Twilight* Motion Pictures;

21 (e) Seeking to register any of the Twilight Marks or any other mark,
22 name, symbol, design or logo which is likely to cause confusion or to cause mistake
23 or to deceive persons into the erroneous belief that the businesses, goods or services
24 of Beckett is sponsored or endorsed or authorized by Summit;

25 (f) Knowingly assisting, inducing, aiding or abetting any person or
26 business entity in engaging in or performing any of the prohibited activities referred
27 to in Paragraphs 1 (a) to (d), inclusive, above.

28

(g) Except as provided in Paragraph 1(f) above, in no case shall Beckett be deemed to be in violation of this Judgment by reason of Beckett's agents, distributors, subdistributors, wholesalers or resellers aka dealers (collectively, "Distributors"), committing any acts that Summit alleges violates Paragraphs 1 (a) to (d);

(h) Beckett shall have no duty to serve a copy of this Judgment on any person or to notify any other entity of the Judgment; however, Beckett shall notify its officers, directors, employees and members of this Judgment and of the relevant provisions of the Agreement;

(i) For the avoidance of doubt, any distributor, wholesaler, subdistributor, or reseller aka dealer that carries, sells, or distributes a Beckett publication is deemed to be a distributor, wholesaler, sub-distributor or reseller aka dealer of Beckett;

(j) For the further avoidance of doubt, distributors, subdistributors, wholesalers, and resellers aka dealers shall not be subject to the terms of this Judgment with respect to material not produced, published, or provided by Beckett.

2. Permanent Injunction Against Curtis and Ubiquity. Curtis and Ubiquity and their respective officers, directors, servants, employees, subsidiaries, representatives, members, successors, assigns, attorneys, agents, and all persons in active concert or participation with Curtis or Ubiquity or with any of the foregoing, are hereby permanently enjoined from transporting, promoting, importing, advertising, marketing, publicizing, distributing, exhibiting, displaying, offering for sale or selling, or taking or placing allocations for sales of, making, facilitating or otherwise placing sales of, advertising, promoting, arranging for or otherwise facilitating the shipment, sale or distribution of, the Disputed Publications, or any other publication of Beckett that (i) constitutes a violation of Paragraphs 1(a) to (d) of this Judgment, and (ii) whose cover page or wrapper represents that the publication features the *Twilight* Motion Pictures. Notwithstanding the foregoing,

1 Curtis and Ubiquity shall be permitted and entitled to process returns and return
2 credits for the Disputed Publications. Nothing in this Paragraph 2 shall impose a
3 duty on Curtis or Ubiquity to conduct a further recall of the Disputed Publications.
4 Curtis and Ubiquity shall have no duty to serve a copy of this Judgment on any
5 person or to notify any other entity of the Judgment; however, Curtis and Ubiquity
6 shall notify its officers, directors, employees, and members of this Judgment and of
7 the relevant provisions of the Agreement.

8 3. Destruction of Infringing Articles. Defendants shall use their best
9 efforts to (a) destroy all physical copies of the Disputed Publications and the
10 Printing Plates in their possession, as well as any physical copies of promotional
11 and marketing artwork and materials regarding the Disputed Publications and the
12 Printing Plates; and (b) delete all electronic media under their possession, custody
13 or control that constitutes a part of the Disputed Publications, the Printing Plates,
14 the Twilight Copyrights, or a use in commerce of the Twilight Marks (including,
15 without limitation, web pages, metatags, search tags, social networking sites,
16 computer files in any format).

17 4. Attorneys' Fees and Costs. Each party shall bear its own attorneys'
18 fees and costs arising out of, related to, or incurred in this civil action, except as
19 provided in Paragraphs 6 and 7 below.

20 5. Cure Period. Except as otherwise provided herein, in the event any
21 party violates the Judgment, the non-breaching party shall give written notice to
22 the breaching party, which shall contain a reasonably specific description of the
23 relevant circumstances constituting the alleged violation. The breaching party
24 shall have thirty (30) calendar days to cure the violation, and also within that thirty
25 (30) day period, the breaching party shall provide the non-breaching party with
26 written evidence to support the breaching party's contention that the violation has
27 been cured. If the violation is not cured within the thirty (30) day cure period, the
28 non-breaching party may enforce the Judgment without further notice to the

1 breaching party. Each party shall be allowed thirty (30) day cure periods under
2 this Paragraph 5 for its first and second alleged violations of the Judgment. If
3 either party violates the Judgment more than two separate times, there will be no
4 cure periods for any subsequent violations (after the second violation) by either
5 party, and the non-breaching party may enforce the Judgment without any further
6 notice of any kind to the breaching party. Good faith consideration shall be given
7 to extending such cure period, upon written notice by the breaching party, giving
8 due regard to the circumstances of the violation, the good faith of the breaching
9 party, and the factors involved in completing the cure.

10 6. Violation of Judgment – Contempt of Court. In the event that any part
11 of this Judgment is violated by any Party, or by any of their present or former
12 officers, directors, agents, servants, employees, members, or representatives, or by
13 any person in active concert and participation with any Party that receives notice
14 of this Judgment, the non breaching Party may file and serve a motion for
15 contempt seeking damages, attorneys' fees and/or other appropriate relief.

16 7. Violation of Judgment -- Prevailing Party Fees and Costs. So long as
17 the cure period provided for in Paragraph 5 is exercised or the cure period is no
18 longer applicable, in an action or proceeding based upon an allegation that a Party
19 has violated this Judgment, the prevailing Party shall be entitled to recover all of
20 its reasonable attorneys' fees, expert witness fees, and other costs incurred in
21 connection with the action or proceeding, not to exceed \$750,000. This paragraph
22 shall not be construed to limit any Party's rights, remedies or procedural options.

23 8. No Admission or Determination of Liability. By stipulating to this
24 Judgment, Defendants do not admit liability or wrongdoing for any of Summit's
25 claims. Defendants expressly deny all of Summit's claims and do not waive any
26 of their defenses alleged in the Civil Action or otherwise available under law,
27 including fair use and First Amendment. This Judgment shall not be considered
28 an admission or determination of liability or wrongdoing by any party.

1 9. Binding Effect. The Judgment shall be binding upon and inure to the
2 benefit of the Parties and all (as the case may be) successors, assigns, parent
3 entities, subsidiaries, officers, directors, members, agents, and affiliates, and other
4 persons who are in active concert or participation with anyone described herein,
5 who receive actual notice of this Judgment by personal service or otherwise.

6 10. Continuing Jurisdiction. This Court shall retain jurisdiction to enforce
7 this Judgment and the Agreement.

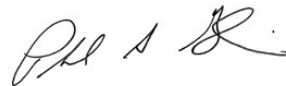
8 11. No Territorial Limit. This Judgment shall be enforceable inside and/or
9 outside of the United States of America, though none of the parties waive any
10 jurisdictional or proper forum defenses.

11 12. Bond. The bond posted for the Preliminary Injunction by Summit is
12 hereby discharged.

13 13. Final Judgment. This Judgment shall be a final disposition of all
14 claims alleged by Summit in this Civil Action, and this Judgment is not
15 appealable.

16
17 IT IS SO ORDERED:

18
19 Dated: 03/11/11



HON. PHILLIP S. GUTIERREZ
UNITED STATES DISTRICT COURT

1 **AGREED TO AND ACCEPTED:**

2 SUMMIT ENTERTAINMENT, LLC

3
4 By 

Date: March 10, 2011

5 David C. Friedman

6 Executive Vice President and General Counsel

7 BECKETT MEDIA, LLC

8
9 By 

Date: 3/10/11

10 Brian D. Gullette
11 President

12
13 UBIQUITY DISTRIBUTORS, INC.

14
15 By _____

Date: _____

16 Joseph Massey
17 President

18 CURTIS CIRCULATION COMPANY, LLC

19
20 By _____

Date: _____

21 Dennis Porti
22 President

23 *Approved as to Form:*

24 MANATT, PHELPS & PHILLIPS, LLP


25
26 By 

Date: March 10, 2011

27 Jill M. Pietrini
28 Attorneys for Plaintiff
Summit Entertainment, LLC

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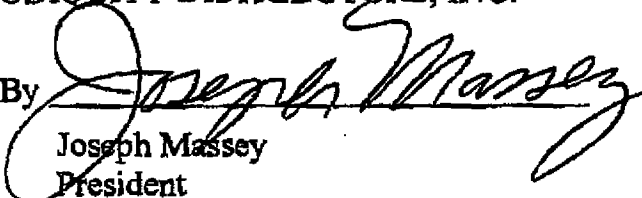
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13 **UBIQUITY DISTRIBUTORS, INC.**

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Date: 3/11/11

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16 President

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18 **CURTIS CIRCULATION COMPANY, LLC**

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Date: March 10, 2011

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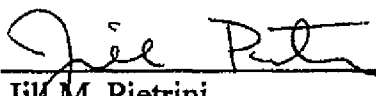
Date: 3/11/11

21 ~~Dennis Forti~~
22 ~~President~~

Domenic A. Giarini
Vice President, Financial Services

23 *Approved as to Form:*

24 **MANATT, PHELPS & PHILLIPS, LLP**

25
26 By 

Date: March 10, 2011

27 Jill M. Pietrini
28 Attorneys for Plaintiff
Summit Entertainment, LLC

LEOPOLD, PETRICH & SMITH

By

Joel M. Smith

Attorneys for Defendants

Beckett Media, LLC and Ubiquity Distributors, Inc.

Date:

10 March 2011

DECHERT, LLP

By

Chris Scott Graham

Attorneys for Defendant

Curtis Circulation Company, LLC

Date:

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